REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on 03/31/2008, and the references cited therewith.

Claims 1, 3 – 13, 15 – 17. 21 – 25, and 27-36 have been amended with non-narrowing amendments to address alleged informalities indicated by the Office.

Drawings

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 1307 for Figure 13. The specification has been amended to remedy the absence of reference 1307 in the specification.

Specification

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(0). The Office Action states that Claims 27-39 the recitation of "encoded in a computer readable medium" is not disclosed in the specification. Although the words "computer readable medium" do not appear in the specification, the specification and Figure 1 disclose a RAM volatile memory element and a non-volatile memory element. Applicant respectfully submits that these examples of a computer-readable medium clearly convey to one skilled in the art that the inventors had possession of the claimed invention with respect to a computer readable medium. If this objection to the specification persists despite the clear support in the specification for a "computer-readable medium," then Applicant respectfully requests a telephonic interview with the Examiner and a Primary Examiner or Supervisory Patent Examiner.

Claim Objections

Applicant was advised that should claims 10, 22, and 34 be found allowable, claims 11, 23, and 35 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. Applicant respectfully submits that claims 11, 23, and 35 are not substantial duplicates of claims

10, 22, and 34. Claims 10, 22 and 34 recite "a subordinate transaction," while claims 11, 23 and 35 recite "a nested transaction." Although a transaction may be both subordinate and nested, a transaction is not necessarily both subordinate and nested.

Claims 1, 3-7, 11-13, 15-17, 21, 24, 25, and 27-36 were objected to because of the following alleged informalities.

a.   In claims 1, 13, and 25 the recitation of "the recipient", should be "a recipient", for example claim 1, line 7;

b.   In claims 1, 3,4,25, and 27-28, the recitation of "completing step" should be "completing the transaction", for example claim 1, line 15;

c.   In claim 3, line 1, the recitation of "the request", should be "a request";

d.   In claims 5-7,11-13,25,29-31 and 34-36, the recitation of "the message", should be "the asynchronous message", for example claim 5, line 3, 5 and 6;

e.   In claim 5, line 6, the recitation of "the calling step", should be "the calling the operation";

f.   In claim 6, line 3, the recitation of "transaction;", should be "transaction.";

g.   In claim 15 and 16, the recitation of "completing the transaction", should be "the transaction service to complete the transaction", for example claim 15, line 3;

h.   In claim 17, line 5, the recitation of "the calling step", should be "the calling a second recipient";

i.   In claims 21 and 24, the recitation of "the unregistering step", should be "unregistering passes a vote to the second transaction", for example claim 21, line 2;

j.   In claims 32 and 33, the recitation of "operation", should be "as a temporary participant", for example claim 32, line 2.

All of the objected to claims have been amended to address the alleged informalities.

Information Disclosure Statement

Applicant submitted a Supplemental Information Disclosure Statement and a 1449 Form on May 20, 2008. Applicant respectfully requests that initialed copies of the 1449 Forms be

returned to Applicants' Representatives to indicate that the cited references have been considered by the Examiner.

Double Patenting Rejection

Claims 1-36 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-39 of copending Application Number 10/448269 (hereinafter APP269). Since the rejection is a provisional rejection and may not persist, Applicant will wait to address the rejection at a later time if it persists.

§101 Rejection of the Claims

Claims 25-36 were rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant repeats the previously submitted arguments. The Office Action states that the claims are directed to non-statutory subject matter because they do not set forth a means to realize the software, such as being stored in a memory or computer storage media. MPEP 2106.01, I "Functional Descriptive Material: 'Data Structures' representing descriptive material per se or computer programs representing computer listings per se" states:

> "a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationship between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory."

Applicant respectfully submits that the claims 25-36, are directed to statutory subject matter in accordance with MPEP 2106.01. If this rejection persists despite the claims clearly being directed to statutory subject matter according to the identified MPEP section, then Applicant respectfully requests a telephonic interview with the Examiner and a Primary Examiner or Supervisory Patent Examiner.

§112 Rejection of the Claims

Claims 1-36 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. The Office has merely made a general statement without any indication of how the claims are indefinite, assuming items 11 and 12 in the Office Action are separate rejections. The Office has provided no rationale that allows the Applicant's representative to respond to this rejection.

Claims 1-36 were rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The Office states that the "omitted elements are: the message is delivered by calling the operation or the definition of the queue and where is the definition of the queue being registered." Apparently, the Office is rejecting the claims under §112, second paragraph for not reciting with whom the definition is registered. MPEP 2172.01 states that "a claim which fails to interrelate essential elements of the invention as defined by applicant(s) in the specification may be rejected under 35 U.S.C. §112, second paragraph." Applicant respectfully requests that the Examiner identify where in the record or the specification the Applicant has defined with whom a queue definition is registered interrelates essential elements. Applicant also notes that MPEP 2172.01 provides the quotation, "[a] claim does not necessarily fail to comply with 35 U.S.C. 112, second paragraph where the various elements do not function simultaneously, are not directly functionally related, do not directly intercooperate, and/or serve independent purposes" (citing Ex parte Huber, 148 USPQ 447, 448-49 (Bd. Pat. App. 1965)).

§103 Rejection of the Claims

Claims 1-4, 13-16, and 25-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over "Strategies for Integrating Messaging and Distributed Object Transactions", by Tai et al. (hereinafter Tai) in view of United States Patent 6,138,143 to Gigliotti et al. (hereinafter Gigliotti), and further in view of United States Patent 6,324,589 B1 to Chessell (hereinafter Chessell). The rejections of the claims fail for several reasons: 1) the Office erroneously assembles unrelated sections from the references into a combination that still fails to disclose or suggest all of the claim limitations, 2) the Office fails to address language in the claims, and 3) the Office proffers arguments for modifying/combining the references that nullify at least some of the rejection arguments.

The Office assembles unrelated portions of the multiple references into a collage that has no more than a superficial appearance of similarity to the claims and that fails to disclose or suggest all limitations of the claims. Claim 1 recites "receiving a request, from a sender, to send an asynchronous message, comprising message data, to a queue, wherein the request is received under the scope of a transaction." Claims 13 and 25 recite similar limitations. The Office rejects claims 1, 13 and 25 under the same rationale, which cites to sections 2.1 Message Delivery Model, 2.2 Message Processing Model, 3.4 MQ Messaging, and 4.3 Message Processing Transaction of Tai. Section 2.2 describes a client as a sender of a request message and a processing server as an ultimate consumer of the request message. Section 2.1 states that a message "may be represented as an object or as a data element." Section 3.4 describes a mechanism for exchanging messages by putting and pulling messages from a queue. Section 4.3 states "the transactional client begins the transaction, sends out a message m1 to a defined set of direct consumers, does some distributed transaction processing, and sends out another message m2 to the same (or, a different) set of" consumers." The consumers in Section 4.3 are server objects. *See* Tai Figure 8. The Office never identifies a section in Tai or any other reference that discloses or suggests receiving from a sender a request to send an asynchronous message to a queue. The cited section of Tai discloses a request message, but not a request to send an asynchronous message to a queue.

As the claims transition to the language that begins with "processing," the flaws of the rejection become more apparent. Claim 1 recites "processing the request to send the asynchronous message by delivering the asynchronous message, prior to completion of the transaction, to the recipient which is registered with the messaging service to process messages from the queue." Claims 13 and 25 recite similar limitations. The Office attempts to address this limitation of the claims with reference to a section of Tai that describes a client delivering messages to server objects during a transaction and the ability of the client to begin or continue distributed transaction processing without being blocked. The arguments then leap back to the earlier section of Tai that provides a description of a consumer subscribing to a provider of a message. The Office rejects the claims by addressing the limitations in isolation and treating the limitations as if disjointed, unrelated elements. The Office cannot argue that a server object is a

consumer of a request from a client when addressing one limitation and then argue that a consumer, which Tai identifies as a server object, is a recipient of the message delivered by processing the request. When viewed in the light of consistency, the Office argues that a server object is both a consumer of a request to deliver a message, and a recipient of the message to be delivered from processing the request. Obviously, the Office cannot interpret Tai as disclosing a server object as both consuming a request to send a message as well as delivering the message to itself. Such an interpretation of Tai would distort Tai by requiring the server object to receive the request to send a message, and process the request to send the message to itself.

Next, claim 1 recites "wherein each participant represents transactional work done as a result of the recipient processing the asynchronous message... whereby transactional work done, as a result of the recipient processing the asynchronous message, is involved in the transaction under the scope of which the asynchronous message was sent." Claims 13 and 25 recite similar limitations. For the recited limitation, the Office relies upon Gigliotti by disconnecting the recited claim language into 1) participants that represent transaction work done, and 2) a recipient processing an asynchronous message, in an attempt to ignore the actual language that the work represented by the participants is done as a result of the recipient processing the asynchronous message. Specifically, the Office argues that a section of Gigliotti that discloses a server object listening for an event to be published (col. 7, lines 49-56) discloses a participant representing transactional work done, and argues that the section of Gigliotti that discloses server objects being responsive to an event being published discloses a recipient processing the asynchronous message. Gigliotti does not disclose the server objects as representing transactional work done as a result of a recipient processing asynchronous message. The disclosure of server objects listening for an event to be published and responding to a published event does not disclose or suggest the recited claim language.

For at least the reasons above, none of the references, standing alone or in combination, disclose or suggest any of the claims as asserted in the Office Action.

Claims 5-12,17-24, and 29-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tai in view Gigliotti and further in view of Chessell, as applied to claim 1 above, and further in view of United States Patent 6,012,094 to Leymann et al. (hereinafter Leymann).

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111
Serial Number: 10/666,793
Filing Date: Sep 18, 2003
Title: SYSTEM AND METHOD FOR MANAGING TRANSACTIONS IN A MESSAGING SYSTEM
Assignee: International Business Machines Corporation

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Dkt: GB920020065US1

Claims 5-12,17-24, and 29-36 are at least allowable because they depend on corresponding ones of the above allowable independent claims.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Steven R. Gilliam at 512-372-3933 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0447.

Respectfully submitted,

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This paper or fee is being filed on the date indicated above using the USPTO's electronic filing system EFS-Web, and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.